

N.J. power companies' three-card monte: Opinion

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By Michael Strugatz

Imagine one morning you woke up and someone had switched your cable TV provider and changed your internet or phone service, all without your permission. What's even more disconcerting: Your local government did it.

You probably would be angry and mystified if this happened to you. But nothing like that can happen in New Jersey. Right? Wrong.

Something very similar is happening right now. Municipalities are signing up tens of thousands of homeowners for contracts with new electricity providers without their knowledge or permission. It's happened in Toms River and Plumsted, and it's about to happen in Brick, Montgomery Township and elsewhere.

It's possible because municipal governments are linking up with energy consulting firms that claim they can lower energy rates. Evidence from other states shows their claims of great savings are exaggerated or fleeting, and the consultants often aren't as independent as they claim to be.

Energy consulting firms are making lots of money by "aggregating" all energy customers in a municipality and selling energy to every homeowner in town through an energy provider they choose. But rather than trying to convince each homeowner to switch energy providers, consultants get the government to do the work for them — signing a contract that switches all residential users to a new provider.

This scheme has its origins in a well-intentioned 1999 state law that opened energy markets to new competition, giving individual homeowners the right to choose from whom they buy energy. The original law allowed energy companies to market directly to homeowners.

In 2003, however, third-party energy providers, frustrated by labor-intensive door-to-door selling, got the state to change the law to allow mass-switching, simply by awarding

a municipal contract to a consultant. Essentially, they legislated a lucrative shortcut for themselves.

Taxpayers don't know how much their municipality is paying the consultants. And the politicians aren't saying.

The goal of energy deregulation was to break up utility monopolies and bring price competition and innovation to the market. Municipal aggregation is nothing more than an end run around deregulation and an effort to re-monopolize the market.

Compensation for the energy consultants is shadowy. Consulting fees are buried in the suppliers' prices, so taxpayers don't know how much their municipality is paying the consultants. And the politicians aren't saying.

The most insidious aspect of energy aggregation is that it forces homeowners to “opt out” of the deal the town made for them, rather than opting into the deal they want. In an attempt to explain the benefits of the municipal aggregation scheme, Toms River officials posted a nearly 5,000-word explanation of its contract. The entire U.S. Constitution has just 4,543 words. If aggregation is so simple, why does it take 5,000 words to explain it? Because, at best, aggregation is cumbersome and its protections for individual consumers are camouflaged.

Apologists for aggregation say not everyone has to agree to the new energy provider the town chooses; residents can opt out. But opting out isn't what energy deregulation was supposed to be about; it's supposed to be about consumer choice — and opting in. Aggregation takes away consumer choice and replaces it with sales pitches and bureaucratic paperwork.

For those who already switched to a third-party energy provider, the aggregation system is even more cumbersome. Toms River residents are warned to read their contract with their energy provider “very carefully as there may be penalties for terminating the contract prematurely.”

Finally, there is the question of savings. In some cases, the cost reductions of aggregation are real, but not very big, and often temporary. As was demonstrated in

Illinois, the switch to a third-party provider doesn't guarantee savings. Crain's Chicago Business reported that residents in nearly 30 towns that aggregated will end up paying more for electricity than their local utility is charging.

Energy purchases should be an informed individual choice, not a sneaky government mandate or shortcut to undisclosed profits. When aggregators come to your town, tell them and your local government that you're capable of making your own decisions.

Michael Strugatz is a retired New Jersey attorney and green energy enthusiast. He heads Citizens Against Municipal Aggregation, a citizens group.